

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MCKINLEY PIERCE ATKINS,
Plaintiff,
v.
E. ROCHA, et al.,
Defendants.

Case No. 1:20-cv-00193-JLT (PC)

**FINDINGS AND RECOMMENDATIONS
TO DISMISS ACTION FOR FAILURE TO
OBEY COURT ORDERS AND FAILURE
TO STATE A CLAIM**

14-DAY DEADLINE

Clerk of the Court to Assign a District Judge

On June 7, 2020, the Court issued a screening order directing Plaintiff, within 21 days, to file a first amended complaint curing the deficiencies in his pleading or a notice of voluntary dismissal. (Doc. 9.) The Court cautioned Plaintiff that failure to comply with the screening order would result in a recommendation “that this action be dismissed for failure to state a claim and to obey a court order.” (*Id.* at 8.) Although the Court has granted Plaintiff four extensions of time spanning nearly 250 days (*see* Docs. 11, 14, 16, 18), Plaintiff has failed to file an amended complaint or a notice of voluntary dismissal within the time provided.

The Local Rules, corresponding with Federal Rule of Civil Procedure 11, provide, “[f]ailure of counsel or of a party to comply with ... any order of the Court may be grounds for the imposition by the Court of any and all sanctions ... within the inherent power of the Court.” Local Rule 110. “District courts have inherent power to control their dockets” and, in exercising that power, may impose sanctions, including dismissal of an action. *Thompson v. Housing Auth.*,

1 *City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action based on a
2 party's failure to prosecute an action, obey a court order, or comply with local rules. *See, e.g.*,
3 *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal for failure to comply with a
4 court order to amend a complaint); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130-31 (9th Cir.
5 1987) (dismissal for failure to comply with a court order); *Henderson v. Duncan*, 779 F.2d 1421,
6 1424 (9th Cir. 1986) (dismissal for failure to prosecute and to comply with local rules).

7 Accordingly, the Court RECOMMENDS that this action be DISMISSED for Plaintiff's
8 failure to obey court orders and failure to state a claim on which relief can be granted. The Court
9 DIRECTS the Clerk of the Court to assign a district judge to this action.

10 These Findings and Recommendations will be submitted to the United States District
11 Judge assigned to this case, pursuant to 28 U.S.C. § 636(b)(1). **Within 14 days** of the date of
12 service of these Findings and Recommendations, Plaintiff may file written objections with the
13 Court. The document should be captioned, "Objections to Magistrate Judge's Findings and
14 Recommendations." Plaintiff's failure to file objections within the specified time may result in
15 waiver of his rights on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir. 2014) (citing
16 *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).

17
18 IT IS SO ORDERED.

19 Dated: **March 17, 2021**

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE